

84-3681

MEMORANDUM FOR: Director of Personnel

VIA: Deputy Director for Policy, Analysis
and Evaluation

FROM:
Chief, Position Management
and Compensation Division

SUBJECT: Overtime Policy

1. Action Requested: Your approval of the recommendation contained in paragraph 3 to expand the use of Annual Premium Pay for administratively uncontrollable overtime (AUO) within the Agency. (U)

2. Background: As part of our objective for FY 84 to study Agency overtime policy, the Position Management and Compensation Division (PMCD) investigated overtime policies within other Intelligence Community agencies. A summary of individual agency practices is attached. (U)

The key finding in this study was the extent of the use of annual premium pay for administratively uncontrollable overtime in use among agencies with law enforcement responsibilities. This form of premium pay was established to compensate certain types of employees who, because of the nature of their jobs, must determine on their own when overtime work is necessary and perform the work without specific direction by management. In general, this form of premium pay has been applied to law enforcement officers, i.e., FBI special agents, Secret Service agents, drug enforcement agents, and certain officers with the Immigration and Naturalization Service. (U)

Employees on AUO are entitled to premium pay ranging from 10 percent to 25 percent of the base pay for GS-10/1, based on the average number of overtime hours worked each week. Premium pay is set at 10 percent for three to five hours; 15 percent for five to seven hours; 20 percent for seven to nine hours; and 25 percent for more than nine hours. Premium pay rates are adjusted periodically as overtime varies within the above ranges.

Within the Agency we have several categories of employees who, like law enforcement officers, must set their own overtime requirements. Most notable among these is the DO case officer. To extend the use of AUO to case officers assigned to operational positions would appear to be an entirely logical step, and would be consistent with the DCI's elimination of the 8-hour overtime donation role in his speech on excellence. DO's current practice of allowing informal compensatory time

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off, while providing Station Chiefs with an avenue for compensating officers for their overtime, leads to considerable inconsistency in the treatment of employees. The extension of AUO would preserve the professional nature of the operations officer occupation by recognizing that individual officers are responsible for determining when it is necessary to work to fulfill their responsibilities, and does not lead to an hourly-employee mentality which often results from payment of overtime on an hourly basis. (U)

Provisions for the use of AUO always have existed in Agency regulations. In fact, the Office of Technical Services has had its Tech Ops Officers overseas on AUO since 1977 for those periods of time they are on TDY support duty. Similarly, the Office of Communications has several TDY support people who receive AUO while on TDY. [REDACTED]

[REDACTED]

25X1

Implementation of AUO on a large scale is not without problems, of course:

- a. AUO could cost an additional \$5 million per year (by comparison to the current practice of not paying for overtime). This cost is based on the assumption that approximately 900 officers would qualify for the maximum rate of 25 percent of the GS-10/1 rate of pay. However, it is far less expensive than hourly overtime, because the maximum rate of AUO premium pay is the equivalent of an average of only 10 hours of overtime per week. (U)

[REDACTED]

25X1

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c. The adoption of AUO will require some adjustments in DO practice. Case Officers will have to keep records on hours worked to provide documentation for the amount of premium pay they receive (from 10 percent to 25 percent of the base rate for GS-10/1, or their actual rate of pay if less than GS-10/1), depending on the average number of overtime hours worked per week. Also, informal compensatory time would no longer be available. (U)

On balance, however, we believe that the long-term benefits to the Agency in terms of equity and employee morale outweigh any additional costs or administrative difficulties which may be involved. (U)

3. Recommendation: It is recommended that:

- a. The Agency proceed with concept approval for the establishment of a formal AUO program for use in qualifying components. (U)
- b. A study be conducted to develop administrative procedures and identify those costs necessary to implement and maintain the AUO program within both the current payroll system and the new payroll system scheduled to come on line in 1987. (U)
- c. Obtain the necessary approvals for Agency implementation. (U)

Attachment



25X1

APPROVED:

Director of Personnel

Date

SUBJECT: Overtime Practices Within the Intelligence Community

(1) Department of State (DOS) operates its personnel program under three separate laws: Title V, the Fair Labor Standards Act (FLSA) and the Foreign Service Act of 1980. For all employees not covered by the Foreign Service Act, the DOS administers its personnel program as any other civilian agency. Overtime or compensatory time are accrued and paid under Title V or FLSA, based on whether or not the employee is covered by FLSA. (U)

Foreign Service Officers (FSOs) are prohibited by the Foreign Service Act from receiving overtime compensation. However, they do have as compensation for their legislated dedication the more lucrative Foreign Service Pay Schedule with its 47 percent pay range and annual step increases through most of the ranges. The Foreign Service Act also provides for compensatory time off for overtime in certain situations. Currently there is wide spread but inconsistent use of compensatory time at the discretion of post management. The Foreign Service Officers Association is currently bargaining for greater use of compensatory time off. (U)

We were also advised in our discussion with the DOS that overtime is becoming a very sensitive issue with younger FSOs, who expect to be paid for time they put in whether in the office or at after-hours official functions. In their current negotiations, the FSOs are asking not only for compensatory time off, but also a structured 8:00-5:00 workday. (U)

(2) National Security Agency (NSA) is, like the Agency, exempt from the pay provisions of Title V. However, for overtime administration the NSA has adopted internal regulations which closely follow Title V. They have, as a matter of policy, paid directed overtime to all non-Senior Cryptologic Executive Service (SCES) personnel. Personnel who are TDY from Headquarters are expected to maintain a record of overtime hours worked while on TDY to be submitted on their return. Others submit their hours as part of the regular time and attendance process, subject to the total compensation limit of GS-15/10. For employees earning more than the maximum rate for GS-10, the NSA requires that they take compensatory time off, if possible. If after 13 weeks, the employee is unable to use his/her compensatory time, payment is made at the overtime rate of one and a half times the GS-10/1 rate. (U)

In general, employees who have reached the maximum levels for overtime compensation (GS-15/10) continue to work overtime if required. However, there seems to be an informal policy within the NSA that limits the use of such personnel to voluntary overtime. (U)

UNCLASSIFIED
WHEN SEPARATED
FROM MEMO

SUBJECT: Overtime Practices Within the Intelligence Community

(3) Federal Bureau of Investigation (FBI) operates within both Title V and FLSA for overtime administration. For administrative, technical, and clerical personnel, overtime is paid on an hourly basis for all hours of directed overtime (or suffered and permitted overtime for FLSA non-exempt employees). Agents are paid annual premium pay for administratively uncontrollable overtime (AUO). This premium pay is up to 25 percent of the rate for a GS-10/1, and is paid in lieu of overtime pay. The amount of premium is based on an average of the number of hours of overtime worked over twelve pay periods. The percentage is adjusted automatically every four pay periods based on documented hours worked during the reporting period. (U)

The FBI has found the AUO premium pay to be a very cost effective means of overtime compensation for its agents. The maximum amount of premium pay equates to an average of only 10 hours of overtime per week, while most agents are working far more than this. Furthermore, AUO is easy to budget for based on known numbers of agents who will be drawing the premium pay. Periodically, the use of AUO by the FBI has been questioned by Justice, the Office of Management and Budget (OMB) and Congress; however, the detailed records they have maintained have provided ample evidence of its cost effectiveness. (U)

There have been occasional complaints from agents on AUO working with technical employees whose hourly overtime amounts to significantly more than AUO for less hazardous and demanding work. These complaints are accepted as quirks of the system, and have not led to any recommendations for change. (U)

(4) Secret Service follows much the same policy as the FBI in its overtime administration. As the FBI, the Secret Service pays all its agents annual premium pay for AUO. Percentages of premium are compensated quarterly based on hours worked over approximately a six month period. Agents are responsible for reporting actual hours of overtime worked and the case number to which the work was charged. They consider the AUO program to be highly cost effective because it helps to maintain the morale of their workforce, and keeps costs low compared to overtime which would have to be paid on an hourly basis. (U)

(5) Drug Enforcement Agency (DEA) follows the overtime procedures used by the FBI and the Secret Service, with its agents on AUO. As with the other agencies, the DEA finds AUO to be extremely cost effective. For some reason, however, the DEA program seems to be challenged by Justice and OMB somewhat more than the other agencies using premium pay. It appears this is because the DEA record keeping procedures are somewhat more lax, and there are instances where agents have worked both AUO and

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regularly scheduled overtime in the same pay period, drawing both types of pay. AUO was not intended to supplement other types of overtime, although the situations described by the DEA probably do meet the letter if not the spirit of Title V overtime provisions. (U)

(6) Defense Intelligence Agency (DIA) is covered by the pay provisions of Title V and pays overtime in accordance with the provisions of that law. As with the NSA, the DIA tends not to direct overtime from employees who have reached the maximum compensable level of GS-15/10. However, most employees in this situation continue to willingly donate time necessary to complete their work. (U)

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Overtime Policy

FROM:

C/PMCD/OP

EXTENSION

NO.

DATE

02 OCT 1984

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

DD/PA&E

RECEIVED

FORWARDED

13 OCT 1984

10/4

Bgc

2.

3.

EO-D/PERS

OCT

5

1984

4.

5.

DD/PERS

6.

7.

D/PERS

8.

NOV 5 1984

DD/PERS

9.

What's the think?

10.

D/PERS

11.

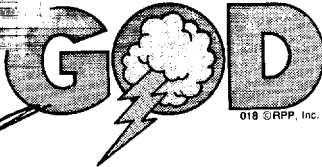
C/PMCD

Attached is a memo recommending expansion of the use of Annual Premium Pay for administratively uncontrollable overtime. Also attached is a summary of the overtime policies within other Intelligence Community agencies.

This is asking for your approval of the concept so we don't waste time working out the details if it's not going anywhere.

8-9 - A good idea & we'll need the kind of data which the OO is illegible

FROM THE DESK OF



PAE
PMCD

NOT YET.

D/Pers

23-5563

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Request for Premium Pay for Administratively
Uncontrollable Overtime for FBIS Employees

FROM:

[REDACTED]

EXTENSION

NO.

C/PMCD

DATE

2 DEC 1983

TO: (Officer designation, room number, and
building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALSCOMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

1. DD/PA&E

[REDACTED]

2 DEC 1983

12/2

BPC

2.

3. EO-D/Pers
5E58 HQ

DEC 5 1983

R/S

4.

5. DD/Pers
5E58 HQ

DEC 5 1983

6.

7. D/Pers
5E58 HQ

8.

9.

10.

11.

12.

13.

14.

15.

Attached are two memoranda which provide background on the request by FBIS for premium pay and the way in which PMCD handled it. The first memorandum was prepared prior to your receipt of [REDACTED]'s note, and the second after [REDACTED] forwarded his complaint for review. Together they more than adequately address the points stressed in [REDACTED] note.

Here is the substance of our response to [REDACTED] quarrel with how we handled FBIS's request:

A. PMCD does not require the names of individuals who in the future will be TDYing abroad. Thus, we are not asking them to be clairvoyant.

B. We are not demanding more of FBIS than we did of OTS. It was simply a case of having on-hand information which allowed us to process the OTS request without asking them for further information.

C. No one in PMCD, to my knowledge, assured [REDACTED] that the request as written could be processed without further information.

D/Pers 89-5563

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Administratively Uncontrollable Overtime for OTS

FROM:

Chief, PMCD
1016 Ames

EXTENSION

NO.

DATE

22 November 1983

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. DD/PAGE
1006 Ames

23 NOV 1983

11/23/83

2.

3. EO-D/PERS
5E58 HQS

4.

5. DD/PERS
5E58 HQS

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15.

The attached memorandum provides information to the Deputy Director of Personnel in connection with the expected receipt in his office of an objection by FBIS to the way in which its request for premium pay was handled by PMCD. Reportedly, FBIS' memorandum will compare the manner in which its request was processed with a similar request from OTS.